

Purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in 86 Ill. Adm. Code 130.305(m). (This is a GIL.)

December 14, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated October 15, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are a company in the business of selling and repairing electric motors in Illinois, located just across from the STATE1 and STATE2 borders.

When a customer from STATE1 or STATE2 picks up a product at our store in Illinois, does their STATE1 or STATE2 exemption certificates, (e.i., farm exemption, machinery exemption, municipality exemption, or resale exemption) qualify them for a non-taxable sale, or are they required to have an exemption certificate from the State of Illinois.

Please respond at your earliest convenience.

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. In order to document the exemption, the user of such machinery and equipment must supply an exemption certificate to the retailer as provided in 86 Ill. Adm. Code 130.330(g)(1). We have enclosed a copy of Form ST-587, the Machinery and Equipment Exemption Certificate, that is used to claim the exemption. The user may provide an active registration or resale number in lieu of the prescribed certificate. For an out-of-state exemption certificate to qualify as a valid exemption certificate in Illinois, it must contain all of the information required in the regulation to be on a certificate in Illinois.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305 which are the Department's regulations for "Farm Machinery and Equipment." Please note that

purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305. Please also note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser. As stated above, for an out-of-state exemption certificate to qualify as a valid exemption certificate in Illinois, it must contain all of the information required in the regulation to be on a certificate in Illinois.

For your information, we have enclosed copies of 86 Ill. Adm. Code 130.2005 and 130.2007 which are regulations covering the exemption from Illinois Sales Tax for qualified nonprofit organizations. Only those nonprofit organizations that have applied for and obtained an Exemption Identification Number from the Illinois Department of Revenue are entitled to the exemption. Exemption Identification Numbers issued to nonprofit organizations by other states may not be used to exempt the organization from Illinois sales tax.

Generally, a Certificate of Resale from another state is not considered valid to document an exemption in Illinois. Other states may not require sufficient information in their Certificates of Resale to qualify under Illinois law. Illinois law requires a valid Certificate of Resale to contain the information set out in part (b) of Section 130.1405. This information includes the purchaser's Illinois registration number or resale number.

It is preferred that sales for resale be documented as explained above. However, statutory language allows a person to provide "other evidence" to document that a sale is for resale, (e.g., an invoice showing a resale of the item acquired, along with a certification by the purchaser that the item is being purchased for resale purposes). We urge you to be cautious in providing "other evidence", however, for an auditor is more likely to scrutinize "other evidence" than a proper Certificate of Resale.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.